



COPYRIGHT CLAIMS BOARD

DOCKET NO. 22-CCB-0165

READ ASAP LTD

CLAIMANT

V.

CLOUDFLARE, INC.

RESPONDENT

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

PLEASE READ CAREFULLY

The claimant initiated this proceeding on September 23, 2022. On November 4, 2022, the Copyright Claims Board issued a [noncompliance order](#) that notified the claimant that the claim did not comply with the applicable statutory and regulatory requirements for filings before the Board. [37 C.F.R. § 224.1\(c\)\(2\)](#). The claimant submitted an amended claim on November 15, 2022. The Board issued a [second noncompliance order](#) on January 18, 2023. On February 17, 2023, the claimant submitted a second amended claim, which was the final opportunity to submit a compliant claim. [17 U.S.C. § 1506\(f\)\(1\)\(B\)](#); [37 C.F.R. § 224.1\(d\)](#). Under 17 U.S.C. § 1506(f)(1)(B), if a second amended claim is noncompliant, the proceeding must be dismissed without prejudice.

A Copyright Claims Attorney reviewed the second amended claim and concluded that the claim is still noncompliant as the allegations clearly do not state a claim upon which the Board may grant relief. [37 C.F.R. § 224.1\(b\)\(3\)](#). The Copyright Claims Attorney referred the second amended claim to me to confirm that it does not comply with the applicable statutory and regulatory requirements, and that this proceeding should therefore be dismissed without prejudice. 17 U.S.C. § 1506(f)(1)(B). I reviewed the second amended claim, and I concur with and confirm the finding of noncompliance.

The second amended claim alleges the following facts:

- The claimant is an online publisher that operates the AnyStories app.
- It has an exclusive license from David Travilla Tacadena to publish his novel *The Silver Hope*.
- The novel has been published, without a license, on infobagh.com.
- The claimant tried to contact infobagh.com's operator without success, including by contacting the respondent Cloudflare, Inc., a "service provider." Cloudflare gave the claimant invalid contact information for infobagh.com's operator.
- The claimant served a DMCA takedown notice upon Cloudflare, but the book remains on infobagh.com.

Those allegations fail to state a claim for infringement because they do not present facts about Cloudflare engaging in or facilitating any infringing activity. The claimant has not described any actions by Cloudflare that would constitute copyright infringement, nor has it described any service that Cloudflare provides to infobagh.com or identified grounds to hold Cloudflare liable for infringement on that site. Providing incorrect contact information is not an infringing act, and the claimant has not explained how Cloudflare contributed to the alleged infringement here. The claimant cannot pursue this claim against Cloudflare with the current allegations that it has made. Accordingly, the Board dismisses the claim without prejudice and closes this case. Dismissal without prejudice means the claimant may raise the allegations again by filing a new claim in a new proceeding.

If the claimant intends to refile its claim and bring a contributory infringement claim against Cloudflare, it should consider the type of online services that Cloudflare offers and must specifically state what Cloudflare did to induce or assist the alleged infringement by the website host. As the second noncompliance order explained, “if you contend that Cloudflare is liable for infringement based upon infringing activity undertaken taken by another person or entity, you must allege facts showing that Cloudflare either (1) knew about that infringing activity and either induced, caused, or substantially contributed to or assisted that activity [*contributory infringement*], or (2) had the right and ability to supervise or control the infringing activity and received a direct financial benefit from that activity [*vicarious infringement*].”

April 11, 2023
Copyright Claims Board